***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

W.P.No.5537 of 2007

% 02-04-2007

Between:

Bhukya Lakshmi Bai

…Petitioner

And

The State Election Commission, rep. by its Secretary, and others

…Respondents

! COUNSEL FOR PETITIONER: Mr. Challa Dhanamjaya

^ COUNSEL FOR RESPONDENTS: Mr.V.V.Prabhakar Rao, Standing Counsel.

G.P. for Women Development

and Child Welfare

< Gist:

> Head Note:

? CITATIONS:

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

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Writ Petition No.5537 of 2007

ORDER:

The petitioner was appointed as an Anganwadi Worker of

Yanamadala Village, Nuzvidu Mandal, Krishna District; several years ago. The election to the Gram Panchayat of that village held in June 2006. She intended to contest to the office of Member of the Gram Panchayat, and accordingly filed nomination.

She was elected, and is holding the office, as of now. The Project Director, Integrated Child Development Scheme, Krishna District, the 3rd respondent, issued a memo dated 14-11-2006, to the effect that the Anganwadi workers, who are elected to offices, in the Panchayat Raj Institutions, are not entitled to continue as Anganwadi workers, in view of the clarification given by the Government, in their memo dated 09-11-2006; and instructions were issued to the subordinate officers to take necessary action. The petitioner challenges the said memo.

Petitioner states that, at the time of elections, uncertainty prevailed, as to whether Anganwadi workers can contest to the offices in the Panchayat Raj Institutions, and the State Election Commission has issued clarification as recently as on 15-07-2006, stating that, in view of the orders passed by the Government in G.O.Ms.No.7, Women Development and Child Welfare Department, dated 07-03-1996, there is no prohibition for them, to contest.

She further states that the impugned memo is contrary to the orders issued by the Government and the clarification issued by the State Election Commission.

Heard the learned counsel for the petitioner and learned Government Pleader for Women Development and Child Welfare.

It is no doubt true that through a circular, dated 15-06-2006, the State Election Commission, the 1st respondent herein, clarified that the Anganwadi workers and Community Health Workers are eligible to contest to offices in the Panchayat Raj Institutions.

This clarification was issued, in the light of the orders of the

Government in G.O.Ms.No.7, dated 07-03-1996.

Section 18 of the A.P. Panchayat Raj Act (for short '*the Act*'), prohibits the employees of State, or Central Governments, or local bodies, or employees of the Institutions, receiving aid or funds from the Government; from contesting to the offices in the Panchayat Raj Institutions. The Government issued G.O.Ms.No.7, in the year 1996, stating that the Anganwadi workers are entitled to hold any elected post, like Sarpanch, M.P.T.C Member etc. In fact, this G.O., was upheld by this Court in a writ petition. However, the Government examined the matter further, and issued G.O.Ms.No.23, dated 04-08-2001. It was pointed out that the Executive instructions issued in G.O.Ms.No.7, dated 07-03-1996, cannot override statutory law, and accordingly amended

G.O.Ms.No.7, by deleting the words "*Anganwadi Workers*" from its purview. It is rather unfortunate, that this G.O., was not taken note of, by the State Election Commission, when it issued the circular, dated 15-06-2006. The fact now remains that, the Anganwadi Workers cannot hold the elected offices in Panchayat Raj Institutions.

It is no doubt true that the petitioner was thoroughly misled by the circular, issued by the State Election Commission. However, the circular, dated 15-06-2006, which is contrary to Section 18 of the Act, and G.O.Ms.No.23, dated 04-08-2001; cannot confer upon her, the right to hold two offices. This Court is not inclined to grant any relief to the petitioner. Hence, the writ petition is dismissed.

It is, however, directed that the petitioner is given fifteen days time, from today, to exercise option, either to continue as Anganwadi Worker, or Member of the Gram Panchayat.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.02-04-2007.

Note:
Issue c.c. in two days.
Mark L.R.copies
(B/O)
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